

DETAILED ACTION

Response to Amendment

1. Applicant's amendment filed on 4/25/08 has been entered and made of record.

Claims 1-6, 9-13 and 20-24 are canceled.

Claims 7, 8 and 14-19 are pending in the application.

Response to Argument

2. Newly submitted claim 7, 8 and 14-19 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons:

Original presentation claims 7, 8 and 14-19 were amended after the final action; their scope is different from the previously presented claims. Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits.

Election Restrictions

3. Restriction to one of the following inventions is required under 35 U.S.C. § 121:

I. Claims 7-8, drawn to an imaging method varying the focus of an imaging device while acquiring an image of an object, thereby blurring the image, classified in class 382 subclass 154.

II. Claims 14- 19, drawn to an imaging method determining a point spread function (PSF) associated with the imaging device, determining an optical transfer function (OTF) using the PSF, determining an object estimate, convolving the object estimate with the PSF, using the OTF, to generate an estimated image, classified in class 359 subclass 368.

The inventions are distinct, each from the other because of the following reasons:

Inventions II and I are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (M.P.E.P. § 806.05(c)).

In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because it does not determine a point spread function (PSF) associated with the imaging device, determining an optical transfer function (OTF) using the PSF, determining an object estimate, convolving the object estimate with the PSF, using the OTF, to generate an estimated image. The subcombination has separate utility such as varying the focus of an imaging device while acquiring an image of an object, thereby blurring the image.

4. Because these inventions are independent or distinct for the reasons given above and there would be a serious burden on the examiner if restriction were not required because the inventions have acquired a separate status in the art in view of their different classification, restriction for examination purposes as indicated is proper.

5. Applicant is advised that ,the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

6. The election of an invention may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse. Traversal must be presented at the time of election in order to be considered timely. Failure to timely traverse the requirement will result in the loss of right to petition under 37 CFR 1.144. If claims are added after the election, applicant must indicate which of these claims are readable on the elected invention. If claims are added after the election, applicant must indicate which of these claims are readable upon the elected invention.

7. Should applicant traverse on the ground that the inventions are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

8. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Contact Information

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sheela C Chawan whose telephone number is. 571-272-7446. The examiner can normally be reached on Monday - Thursday 7.30 - 6.00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Werner P can be reached on 571-272- 7401. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

6/9/08
/Sheela C Chawan/

Primary Examiner, Art Unit 2624

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